

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

RONALD E. HARRIS, II,

Petitioner,

Case No. 3:09-cv-60

-vs-

District Judge Timothy S. Black
Magistrate Judge Michael J. Newman

WARDEN, Chillicothe Correctional
Institution

Respondent.

ORDER DENYING DOCUMENT 40

The Court previously recommended that Petitioner's *habeas* petition, filed *pro se*, be denied.

Doc. 22. Petitioner was granted additional time to file Objections to that Report and Recommendation ("R&R"), *see* doc. 24, and the R&R was affirmed by Judge Black on December 6, 2011. Doc. 29. Accordingly, the case was closed at that time. Doc. 30. Petitioner then filed a motion for reconsideration, which was denied by Judge Black on January 6, 2012. Docs. 32, 33. Thereafter, he filed a notice of appeal in the Sixth Circuit Court of Appeals. Doc. 36.

Now before the Court is a document (doc. 40) which Petitioner captions as "Brief of Petitioner/Motion for Reconsideration 26 B." It is unclear whether this document is a motion. Assuming, *arguendo*, that the document is a motion, it merits denial for several reasons.

First, the relief sought in the document is unclear. Second, this case is closed and judgment has already been entered against Petitioner. Third, noting that Petitioner references the term "reconsideration," to the extent he seeks reconsideration of the merits of his *habeas* claim, the request is moot -- and merits denial -- as Judge Black has already entertained (and denied)

Petitioner's motion for reconsideration. *See supra*. Finally, as best the Court can tell from a liberal construction of the *pro se* pleading, what Petitioner has filed is not a motion but, apparently, an appellate brief. If his intention is to file such a brief in the Sixth Circuit in support of his appeal, he should re-file this pleading in that Court.

The motion (doc. 40), therefore, is **DENIED**.

IT IS SO ORDERED.

April 9, 2012

s/ **Michael J. Newman**
United States Magistrate Judge